

1 AN ACT concerning revenue.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Automobile Renting Occupation and Use Tax
5 Act is amended by changing Section 2 as follows:

6 (35 ILCS 155/2) (from Ch. 120, par. 1702)

7 Sec. 2. Definitions. "Renting" means any transfer of the
8 possession or right to possession of an automobile to a user
9 for a valuable consideration for a period of one year or less.

10 "Renting" does not include making a charge for the use of
11 an automobile where the rentor, either himself or through an
12 agent, furnishes a service of operating an automobile so that
13 the rentor remains in possession of the automobile, because
14 this does not constitute a transfer of possession or right to
15 possession of the automobile.

16 "Renting" does not include the making of a charge by an
17 automobile dealer for the use of an automobile as a
18 demonstrator in connection with the dealer's business of
19 selling, where the charge is merely made to recover the costs
20 of operating the automobile as a demonstrator and is not
21 intended as a rental or leasing charge in the ordinary sense.

22 "Automobile" means any motor vehicle of the first division,
23 a motor vehicle of the second division which is a
24 self-contained motor vehicle designed or permanently converted
25 to provide living quarters for recreational, camping or travel
26 use, with direct walk through access to the living quarters
27 from the driver's seat, or a motor vehicle of the second
28 division which is of the van configuration designed for the
29 transportation of not less than 7 nor more than 16 passengers,
30 as defined in Section 1-146 of the Illinois Vehicle Code.

31 "Car-sharing organization" means a membership-based
32 organization: (i) with a qualified fleet of automobiles that

1 are rented or leased to members primarily for hourly use
2 through a self-service, fully automated reservation system;
3 (ii) that charges a membership fee separately from the hourly
4 charge for the rental or lease of a specific vehicle; (iii)
5 that provides all legally required insurance as part of its
6 initiation fees, membership dues, or leasing or rental charges;
7 and (iv) that does not require a separate written agreement
8 each time a member rents or leases a specific automobile.

9 For the purposes of this definition:

10 "Qualified fleet" means a distributed fleet of
11 automobiles:

12 (1) at least 10% of which is comprised of automobiles
13 that have hybrid engines, with a goal of at least 20%
14 within 3 years after the effective date of this amendatory
15 Act of the 94th General Assembly; and

16 (2) at least 50% of which is comprised of automobiles
17 that are ultra-low emission vehicles.

18 "Department" means the Department of Revenue.

19 "Person" means any natural individual, firm, partnership,
20 association, joint stock company, joint adventure, public or
21 private corporation, limited liability company, or a receiver,
22 executor, trustee, conservator or other representative
23 appointed by order of any court.

24 "Renter" means any person, firm, corporation or
25 association engaged in the business of renting or leasing
26 automobiles to users. For this purpose, the objective of making
27 a profit is not necessary to make the renting activity a
28 business.

29 "Rentee" means any user to whom the possession, or the
30 right to possession, of an automobile is transferred for a
31 valuable consideration for a period of one year or less,
32 whether paid for by the "rentee" or by someone else.

33 "Gross receipts" from the renting of tangible personal
34 property or "rent" means the total rental price or leasing
35 price. In the case of rental transactions in which the
36 consideration is paid to the renter on an installment basis,

1 the amounts of such payments shall be included by the rentor in
2 gross receipts or rent only as and when payments are received
3 by the rentor.

4 "Gross receipts" does not include receipts received by an
5 automobile dealer from a manufacturer or service contract
6 provider for the use of an automobile by a person while that
7 person's automobile is being repaired by that automobile dealer
8 and the repair is made pursuant to a manufacturer's warranty or
9 a service contract where a manufacturer or service contract
10 provider reimburses that automobile dealer pursuant to a
11 manufacturer's warranty or a service contract and the
12 reimbursement is merely made to recover the costs of operating
13 the automobile as a loaner vehicle.

14 "Rental price" means the consideration for renting or
15 leasing an automobile valued in money, whether received in
16 money or otherwise, including cash credits, property and
17 services, and shall be determined without any deduction on
18 account of the cost of the property rented, the cost of
19 materials used, labor or service cost, or any other expense
20 whatsoever, but does not include charges that are added by a
21 rentor on account of the rentor's tax liability under this Act
22 or on account of the rentor's duty to collect, from the rentee,
23 the tax that is imposed by Section 4 of this Act. The phrase
24 "rental price" does not include compensation paid to a rentor
25 by a rentee in consideration of the waiver by the rentor of any
26 right of action or claim against the rentee for loss or damage
27 to the automobile rented and also does not include a separately
28 stated charge for insurance or recovery of refueling costs or
29 other separately stated charges that are not for the use of
30 tangible personal property.

31 (Source: P.A. 90-14, eff. 7-1-97; 91-193, eff. 7-20-99.)